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10/057,709	01/25/2002	Victor Kouznetsov	002.0233.01	9016

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EXAMINER

TAYLOR, NICHOLAS R

ART UNIT PAPER NUMBER

2141

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/057,709

Applicant(s)

KOUZNETSOV ET AL.

Examiner

Nicholas R. Taylor

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

EA

### **DETAILED ACTION**

1. Claims 1-44 have been presented for examination and are rejected.

#### ***Response to Arguments***

2. The affidavit filed on 6/22/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the 103(a) Engel reference.

Under 37 CFR 1.131(b) the applicant must overcome the burden of showing conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice.)

While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The applicant has failed to provide this evidence of conception in the received disclosure.

The examiner has reviewed the submitted Exhibit A and finds that it would not support conception were it accompanied by a proper affidavit. The exhibit submitted by the applicant provides a brief overview of a web-based administration system for network appliances. This overview summarizes a potential inventive concept, but does

Art Unit: 2141

not give the details necessary for their means and interaction. For example, the primary portion of the disclosure lists five major points that explain the procedural steps taken by the system, yet fails to specifically detail how those steps are accomplished.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974).

Furthermore, in determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958.).

However, in the interest of compact prosecution, the examiner notes that the evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Engel reference. No proof of diligence is given by the applicant beyond a statement that, "It is hereby declared that the applicant acted diligently from a time prior to the effective date..."

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, **it is not enough merely to allege** that applicant or patent owner

Art Unit: 2141

had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889).

Rather, applicant must show evidence of facts establishing diligence.

For these reasons listed above, the affidavit is ineffective in overcoming the prior art rejection(s).

3. Applicant's arguments filed 6/22/2005 have been fully considered but they are deemed not persuasive.

4. In the remarks, applicant argued in substance that:

(A) Prior art of Engel does not teach sending a configuration packet using the physical network address for each at least one such network appliance sending a response message and requiring configuration

As to point (A), Engel teaches a network system that discovers network devices and receives from the devices current configuration information for the network device (Engel, paragraph 0022.) The network system later sends a configuration packet to the network device using Internet protocols to configure the device (Engel, paragraph 0023.) In a system such as that outlined in Engel, it is inherent that an unconfigured (has no communicable address) network device must be configured using the physical network address of the device.

(B) Prior art of Engel does not teach installing the configuration package as part of an initialization bootstrap operation.

As to point (B), Engel teaches sending network settings to a device that is previously unconfigured (Engel, paragraph 0022, 0031, 0032 and figure 2.) These settings initialize, or boot, the network device into a state that makes it operable on the network.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 24, 25, 28, 34, 35, 38, 32, 33, and 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Engel et al. (US PGPub 2002/0198969.)

7. As per claims 24, 34, and 44, Engel teaches a method for remotely configuring a network appliance deployed within a distributed computing environment, comprising:

sending a response message containing network settings from at least one network appliance responsive to a query message broadcast over a specified network

Art Unit: 2141

domain within which the at least one network appliance operates; (Engel, paragraph 0022)

generating a configuration package for the at least one network appliance and containing centrally managed network settings customized for the at least one network appliance; and (Engel, paragraph 0031-0032)

installing the configuration package on the at least one network appliance as part of an initialization bootstrap operation (Engel, paragraph 0032, wherein the settings initializes devices that are previously unconfigured.)

8. As per claims 25, 35, and 44, Engel teaches the system further comprising:

centrally managing a library of configurations containing network settings for each such network appliance operating with the specified network domain (Engel, paragraph 0034, specifically the configuration server.)

9. As per claims 28, 38, and 44, Engel teaches the system further comprising:

exporting a standardized user interface providing configuration controls for a heterogeneous set of the network appliances (Engel, paragraph 0019, specifically the web browser interface.)

10. As per claims 32, 42, and 44, Engel teaches the system further wherein at least one such network appliance performs one of electronic mail anti-virus scanning, content filtering, packet routing, and file, Web and print servicing (Engel, paragraph 0004.)

11. As per claims 33, 43, and 44, Engel teaches the system further wherein the distributed computing environment is TCP/IP-compliant (Engel, paragraph 0032.)

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1, 9, 10-12, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US PGPub 2002/0198969) and Poger et al. (US Patent 6,772,420.)

14. As per claims 1, 12, and 23, Engel teaches a method for providing Web browser-based remote network appliance configuration in a distributed computing environment (Engel, figure 4), comprising:

broadcasting a query message from an applet executing within a Web browser to one or more network appliances interconnected within a bounded network domain defined by a common network address space; (Engel, paragraph 0022)



processing a response message containing network settings received by the applet from at least one such network appliance responsive to the query message; and (Engel, paragraph 022)

generating and sending a configuration packet using the physical network address for each at least one such network appliance sending a response message and requiring configuration (Engel, paragraph 0031, wherein use of the physical address is part of IP and ethernet communication.)

Although Engel teaches sending “an identifier and/or related information for the network device,” Engel doesn’t specifically teach including the physical network address in response to the query. Poger teaches a network device configuration method that sends a physical address to a server in identifying the device for configuration (Poger, column 4, lines 49-67.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel and Poger to provide the physical address identification of Poger in the system of Engel, because doing so would give each device a unique identification that wouldn’t conflict with other devices on the network (Poger, column 3, lines 19-31.)

15. As per claims 9, 20, and 23, Engel-Poger teaches the system further comprising:

sending at least one of the query message and the configuration packet from the applet responsive to instructions maintained in a message queue (Engel, paragraph 0031-0032.)

Art Unit: 2141

16. As per claims 10, 21, and 23, Engel-Poger teaches the system further comprising:

storing into the configuration packet values comprising at least one of hostname, domain, internet protocol address, netmask, gateway, primary domain name server, and secondary domain name server (Engel, paragraph 0029.)

17. As per claims 11, 22, and 23, Engel-Poger teaches the system further wherein the bounded network domain is compliant with the TCP/IP (Engel, paragraph 0023) and the configuration packet is compliant with the UDP (Engel, paragraph 0032, specifically the "multi-cast protocol".)

18. Claims 2-6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US PGPub 2002/0198969) and Poger et al. (US Patent 6,772,420), further in view of Novaes et al. (US Patent 6,725,261.)

19. As per claims 2, 13, and 23, Engel-Pogel teaches the system further comprising: sending a response message and not requiring configuration (Engel, paragraph 0022.) However, Engel-Pogel fails to teach updating a list of the network appliances for each at least one such network appliance sending a response message and not requiring configuration.

Novaes teaches maintaining a list of network appliance statuses (Novaes, column 17, lines 10-17.) It would have been obvious to one of ordinary skill in the art, at

Art Unit: 2141

the time the invention was made, to have combined Engel-Pogel and Novaes to provide the network appliance configuration techniques of Novaes in the system of Engel-Pogel, because doing so would enhance the administration of network appliance networks (Novaes, column 1, lines 56-59.)

20. As per claims 3, 14, and 23, Engel-Poger teaches the above, yet fails to teach:

receiving a status message from each at least one such network appliance requiring configuration responsive to receipt of the configuration packet.

Novaes teaches receiving a responsive status message from a network appliance in response to a configuration message (Novaes, column 17, lines 19-40.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel-Pogel and Novaes to provide the network appliance configuration techniques of Novaes in the system of Engel-Pogel, because doing so would enhance the administration of network appliance networks (Novaes, column 1, lines 56-59.)

21. As per claims 4, 15, and 23, Engel-Poger-Novaes teaches the system further wherein the status message indicates a successful configuration, further comprising:

sending a kickstart message to each at least one such network appliance to initiate an autonomous management session (Novaes, column 6, lines 14-30.)

Art Unit: 2141

22. As per claims 5, 16, and 23, Engel-Poger-Novaes teaches the system further wherein the status message indicates an unsuccessful configuration, further comprising:

resending the configuration packet to the at least one such network appliance  
(Engel, paragraph 0032, wherein TCP/IP resends failed transmissions.)

23. As per claims 6, 17, and 23, Engel-Poger-Novaes teaches the system further wherein the status message indicates an on-going configuration, further comprising:

waiting for completion of configuration by the at least one such network appliance  
(Novaes, column 17, lines 19-40.)

24. Claims 7, 8, 18, 19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US PGPub 2002/0198969) and Poger et al. (US Patent 6,772,420), further in view of Cohen (US PGPub 2003/0023732.)

25. As per claims 7, 18, and 23, Engel-Poger teaches the above, and further comprising:

installing the applet into the Web browser prior to broadcasting the query message (Engel, paragraph 0008, specifically sentences 1-3.)

However, Engel-Poger fails to teach receiving the applet from an applet database storing a plurality of applets customized for execution within each such bounded network domain. Cohen teaches a centralized server storing an applet database

Art Unit: 2141

(Cohen, paragraph 0032) with applets designed to modify the devices they are downloaded to (Cohen, paragraph 0041.)

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel-Poger and Cohen to provide the configuration applet database of Cohen in the system of Engel-Poger, because doing so would enable updating the functionality of a broad range of devices from a central location (Cohen, paragraph 0010.)

26. As per claims 8, 19, and 23, Engel-Poger-Cohen teaches the system further comprising:

receiving the applet in a secure session (Cohen, paragraph 0042.)

27. Claims 26, 27, 31, 36, 37, 41 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US PGPub 2002/0198969) and Cohen (US PGPub 2003/0023732.)

28. As per claims 26, 36, and 44, Engel teaches the above. However, Engel fails to teach maintaining a library of applets for one or more Web browser-based configuration clients operating within the specified network domain. Cohen teaches a centralized server storing an applet library (Cohen, paragraph 0032) with applets designed to modify the devices they are downloaded to (Cohen, paragraph 0041.)

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel and Cohen to provide the configuration applet database of Cohen in the system of Engel, because doing so would enable updating the functionality of a broad range of devices from a central location (Cohen, paragraph 0010.)

29. As per claims 27, 37, and 44, Engel-Cohen teaches the system further comprising:

deploying one such applet from the library to each such configuration client using a secure session (Cohen, paragraph 0042.)

30. As per claims 31, 41, and 44, Engel teaches the above, yet fails to teach the system further comprising:

initializing a secure management session following successful configuration package installation on at least one such network appliance.

Cohen teaches configuration package installation in a secure management session (Cohen, paragraph 0040-0041.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel and Cohen to provide the secure configuration of Cohen in the system of Engel, because doing so would enable securely updating the functionality of a broad range of devices from a central location (Cohen, paragraph 0010.)

Art Unit: 2141

31. Claims 29, 30, 39, 40, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US PGPub 2002/0198969) and Novaes et al. (US Patent 6,772,420.)

32. As per claims 29, 39, and 44, Engel teaches the above, yet fails to teach the system further comprising:

including at least one of a timestamp and a unique seed value in each such configuration package.

Novaes teaches using a unique seed value to in a configuration package (Novaes, column 9, lines 4-25.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Engel-Pogel and Novaes to provide the network appliance configuration techniques of Novaes in the system of Engel-Pogel, because doing so would enhance the administration of network appliance networks (Novaes, column 1, lines 56-59.)

33. As per claims 30, 40, and 44, Engel teaches the above, yet fails to teach the system further comprising:

sending a message comprising one of success, failure and unconfigured following configuration package installation at each such network appliance.

Novaes teaches receiving a responsive status message from a network appliance in response to a configuration message (Novaes, column 17, lines 19-40.) It would have been obvious to one of ordinary skill in the art, at the time the invention was

Art Unit: 2141

made, to have combined Engel and Novaes to provide the network appliance configuration techniques of Novaes in the system of Engel, because doing so would enhance the administration of network appliance networks (Novaes, column 1, lines 56-59.)

### ***Conclusion***

34. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.



Art Unit: 2141

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor  
Examiner  
Art Unit 2141

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER